

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1029 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 5-1-1-1 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE MARCH 15, 2006 (RETROACTIVE)]: Sec.
- 5 1. (a) **The following definitions apply throughout this section:**
- 6 **(1) "Agreement" means any agreement that includes terms,**
- 7 **representations, or provisions relating to:**
- 8 **(A) credit enhancement of, or rate covenants supporting,**
- 9 **any bonds, notes, evidences of indebtedness, leases, swap**
- 10 **agreements, or other written obligations described in**
- 11 **subsection (b);**
- 12 **(B) any indenture or provision regarding any indenture**
- 13 **relating to any bonds, notes, evidences of indebtedness,**
- 14 **leases, swap agreements, or other written obligations**
- 15 **described in subsection (b);**
- 16 **(C) payment of any bonds, notes, evidences of**
- 17 **indebtedness, leases, swap agreements, or other written**
- 18 **obligations described in subsection (b) in the event of a**
- 19 **termination of the agreement; or**
- 20 **(D) public works, capital improvements, or economic**
- 21 **development projects.**
- 22 **(2) "Leasing body" means a not-for-profit corporation, limited**
- 23 **purpose corporation, or authority that has leased land and a**
- 24 **building or buildings to an entity named in subsection (b) other**
- 25 **than another leasing body.**
- 26 **(3) "Swap agreement" has the meaning set forth in**
- 27 **IC 8-9.5-9-4.**
- 28 (b) All bonds, notes, evidences of indebtedness, leases, or other
- 29 written obligations issued **or executed** by or in the name of any:
- 30 **(1) state agency, county, township, city, incorporated town, school**

corporation, state educational institution, state supported institution of higher learning, political subdivision, joint agency created under IC 8-1-2.2, leasing body, **separate body corporate and politic**, or any other political, municipal, public or quasi-public corporation; ~~or in the name of any~~
(2) special assessment or taxing district; ~~or in the name of any~~
(3) board, commission, authority, or authorized body of any such entity; and

any pledge, dedication or designation of revenues, conveyance, or mortgage securing these bonds, notes, evidences of indebtedness, leases, **swap agreements, agreements**, or other written obligations are hereby legalized and declared valid if these bonds, notes, evidences of indebtedness, leases, **swap agreements, agreements**, or other written obligations have been executed before March 15, ~~2000~~: **2006**. All **governance, organizational, or other** proceedings had and actions taken under which the bonds, notes, evidences of indebtedness, leases, **swap agreements, agreements**, or other written obligations were issued ~~or executed~~ or the pledge, dedication or designation of revenues, conveyance, or mortgage was granted, are hereby fully legalized and declared valid.

(c) All contracts for the purchase of electric power and energy or utility capacity or service:

- (1)** entered into by a joint agency created under IC 8-1-2.2; and
- (2)** its members used for the purpose of securing payment of principal and interest on bonds, notes, evidences of indebtedness, leases, or other written obligations issued by or in the name of such joint agency;

are hereby legalized and declared valid if entered into before March 15, ~~2000~~: **2006**. All proceedings held and actions taken under which contracts for the purchase of electric power and energy or utility capacity or service were executed or entered into are hereby fully legalized and declared valid.

(d) All interlocal cooperation agreements entered into by political subdivisions or governmental entities under IC 36-1-7 are hereby legalized and declared valid if entered into before March 15, ~~2000~~: **2006**. All proceedings held and actions taken under which interlocal cooperation agreements were executed or entered into are hereby fully legalized and validated."

Page 4, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 5. IC 20-12-6-1.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.2. (a) In addition to the powers set forth in section 1 of this chapter, the corporations may:

- (1) acquire, erect, construct, reconstruct, improve, rehabilitate, remodel, repair, complete, extend, enlarge, furnish, and operate any equipment that the governing boards of the corporations

- 1 consider necessary for:
- 2 (A) carrying on the educational research or public service
- 3 programs or discharging the statutory responsibilities of the
- 4 educational institutions and their various divisions; or
- 5 (B) the management, operation, or servicing of the institutions;
- 6 and
- 7 (2) establish liability or other loss insurance reserves or contribute
- 8 those reserves or other capital to a risk retention group for the
- 9 purpose of providing insurance coverage against liability claims.
- 10 (b) As used in this chapter:
- 11 (1) "building facility" includes:
- 12 (A) capital equipment;
- 13 (B) software; and
- 14 (C) other costs;
- 15 **that directly relate to operating the building facility, as**
- 16 **determined under accounting principles approved by the state**
- 17 **board of accounts.**
- 18 (2) "liability or other loss insurance reserves" means a fund set
- 19 aside as a reserve to cover risk retained by the corporation in
- 20 connection with liability claims or other losses;
- 21 (3) "risk retention group" means a trust, pool, corporation,
- 22 partnership, or joint venture funded by and owned and operated
- 23 for the benefit of more than one (1) eligible member;
- 24 (4) "eligible members" includes the corporations and all private
- 25 institutions of higher education (as defined in IC 20-12-63-3); and
- 26 (5) "liability" means legal liability for damages (including costs of
- 27 defense, legal costs and fees, and other claims expenses) because
- 28 of injuries to other persons or entities, damage to their property or
- 29 business, or other damage or loss to those persons or entities
- 30 resulting from or arising out of any activity of any eligible
- 31 member.
- 32 SECTION 6. IC 20-12-6-7 IS AMENDED TO READ AS
- 33 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Subject to
- 34 ~~section~~ **sections 16 and 17** of this chapter, bonds may be issued in an
- 35 amount or amounts that do not exceed the maximum amount determined
- 36 by the governing board of the issuing corporation.
- 37 (b) The bonds may be issued in the form and upon the terms and
- 38 conditions, at the rate or rates of interest, and in the denominations
- 39 which may be made convertible into different denominations as the
- 40 governing board of the corporation may determine by the adoption of
- 41 a resolution or approval of a form of trust indenture between the
- 42 corporation and a designated corporate trustee, or both.
- 43 (c) The resolution or the indenture may include provisions for:
- 44 (1) protecting and enforcing the rights and remedies of the holders
- 45 of the bonds being issued;
- 46 (2) covenants setting forth the duties of the corporation and its

officers in relation to the acquisition, construction, operation, maintenance, use, and abandonment of the building facility, and insurance thereof;

(3) the custody, safeguarding, application, and investment of all money;

(4) the rights and remedies of the trustee and the holders of the bonds being issued;

(5) the issuance of additional bonds as provided in the resolution or indenture; and

(6) other terms, conditions, and covenants as the governing board of the corporation determines are proper, including provision for the establishment of a debt service reserve by:

(A) the use of bond proceeds or other sources;

(B) the furnishing of an insurance policy, surety bond, or letter of credit; or

(C) any combination of clause (A) or (B).

(d) The bonds shall be sold at public or negotiated sale as provided by IC 4-1-5.

(e) All bonds and the interest coupons appertaining to the bonds issued under this chapter shall be negotiable instruments within the meaning and for all purposes under the laws of this state, subject only to the provisions of the bonds for registration as to principal or as to principal and interest. Any bonds registered as to principal and interest may be made convertible to bearer bonds with coupons.

(f) No action to contest the validity of any bonds issued under this chapter shall be brought after the fifteenth day following:

(1) the first publication of notice of the sale or intent to sell the bonds under IC 4-1-5, if the bonds are sold at public sale; or

(2) the publication one (1) time in newspapers described in IC 4-1-5-1 of notice of execution and delivery of the contract of sale for the bonds, if the bonds are sold at negotiated sale.

(g) The corporation shall publish notice under subsection (f)(2) if it sells bonds at negotiated sale within thirty (30) days of execution of the contract of sale for the bonds.

(h) The rate or rates of interest of the bonds may be fixed or variable. Variable rates shall be determined in the manner and in accordance with the procedures set forth in the resolution or indenture authorizing the issuance of the bonds. Bonds bearing a variable rate of interest may be converted to bonds bearing a fixed rate or rates of interest to the extent and in the manner set forth in the resolution or indenture pursuant to which the bonds are issued. The interest may be payable semiannually, annually, or at any other interval or intervals as may be provided in the resolution or indenture, or the interest may be compounded and paid at maturity or at any other times as specified in the resolution or indenture.

(i) The bonds may be made subject, at the option of the holders, to

1 mandatory redemption by the corporation at the times and under the
2 circumstances set forth in the authorizing resolution or indenture.

3 (j) A resolution or the indenture may contain provisions regarding
4 the investment of money, sale, exchange, or disposal of property and the
5 manner of authorizing and making payments, notwithstanding IC 5-13
6 or any general statute relating to these matters.

7 SECTION 7. IC 20-12-6-8.5 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.5. (a) Any
9 corporation that has entered into a written contract for a grant, pending
10 the receipt of the grant, but within the limitations set forth in this
11 section, may borrow from any person and evidence the debt by a note
12 or a series of notes of equal or unequal amounts containing such terms
13 and conditions as the governing board of the corporation prescribes.
14 Any note may pledge, for the payment of the principal and interest
15 thereof, the proceeds of the grant and any revenue that may be derived
16 from the building facility being constructed, acquired, renovated, or
17 improved by the proceeds of the note or notes.

18 (b) A loan made under this section may not exceed ~~eighty percent~~
19 ~~(80%) of~~ the estimated amount of the grant in anticipation of which the
20 loan is made. Further, the corporation shall make prepayments of the
21 outstanding balance of its note or retire one (1) or more of its series of
22 outstanding notes promptly upon partial receipt of grant funds. ~~so that~~
23 ~~the outstanding amount of any loan made under this section does not~~
24 ~~exceed the balance of the grant funds yet to be received.~~

25 (c) The notes shall be executed in the same manner as provided for
26 bonds in section 8 of this chapter, and the notes shall be sold in the
27 same manner as provided for bonds in section 7 of this chapter.

28 (d) The governing board of the corporation shall apply the proceeds
29 of any notes issued under this section to those items of cost for which
30 the grant has been allocated by the granting agencies. The purchaser of
31 any notes is not liable for any improper use of the proceeds, and the
32 purchaser does not have to insure that the amount of the loan stays
33 within the maximum limits as grant funds are from time to time
34 received by the corporation.

35 (e) As used in this section, "grant" means any ~~money received~~
36 **agreement for any combination of grants, gifts, or pledges:**

37 **(1) to or for the benefit of a corporation from:**

38 **(A)** the United States government or any of its agencies;

39 **(B)** the state of Indiana or any of its agencies; or ~~from~~

40 **(C)** any private **person**, corporation, trust, or foundation; **and**

41 **(2) to be used for in connection with** the acquisition,
42 improvement, renovation, ~~or~~ construction, **or support** of building
43 facilities that the corporation may lawfully undertake.

44 SECTION 8. IC 20-12-6-13 IS AMENDED TO READ AS
45 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. The term
46 "bond" or "bonds" as used in this chapter means any bonds (including

refunding bonds), notes, temporary, interim, or permanent certificates of indebtedness, debentures, or other obligations evidencing indebtedness for borrowed money. **The term does not include installment contracts or similar instruments under section 2 of this chapter.**

SECTION 9. IC 20-12-6-16, AS AMENDED BY P.L.235-2005, SECTION 195, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) No bonds shall be issued by the corporations under the provisions of this chapter without the specific approval of:

(1) the budget agency if the bonds are issued for the refunding or advance refunding of any outstanding bonds approved as required by this chapter and the corporation makes the findings described in subsection (b); and

(2) the state budget committee, budget agency, and the governor of the state of Indiana, if subdivision (1) does not apply.

The budget agency may request and consider the recommendation of the staff of the Indiana finance authority with respect to the approval of a bond issue under this section.

(b) A corporation may provide for refunding or advance refunding of any outstanding bonds under subsection (a)(1) whenever the board of trustees of the corporation finds that the refunding or advance refunding will effect a benefit to the corporation because:

(1) a net savings to the corporation will be effected; or

(2) the net present value of principal and interest payments on the bonds is less than the net present value of the principal and interest payments on the outstanding bonds to be refunded.

SECTION 10. IC 20-12-6-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) Except for notes issued under section 8.5 of this chapter and except as provided in subsections ~~(d)~~ and (e) **through (h)**, no bonds shall be issued for a project by the corporations under this chapter unless the general assembly:

(1) has specifically approved the project to be financed through the issuance and sale of these bonds; and

(2) has provided the amount of bonds which may be issued to fund the costs of acquiring, constructing, remodeling, renovating, furnishing, or equipping the specific project approved.

(b) In addition to and in connection with the amount of bonds that may be issued by a corporation for a specific project as provided in subsection (a)(2), the corporations may also issue bonds in amounts necessary to provide funds for debt service reserves, bond or reserve insurance, and other costs without additional approval by the general assembly, if these costs are incidental to the issuance of bonds for the

1 project.

2 (c) The bonds, regardless of when the amount of bonds was
3 approved by the general assembly, may be issued in an amount not
4 exceeding:

5 (1) the amount of bonds approved by the general assembly
6 together with the amounts described in subsection (b); plus

7 (2) the amount of the discount below par value, if bonds are sold
8 at a price below par value under IC 4-1-5-1.

9 **(d) As used in this subsection, "fee replacement" means**
10 **payments to a corporation to be used to pay indebtedness resulting**
11 **from financing the cost of planning, purchasing, rehabilitation,**
12 **construction, repair, leasing, lease-purchasing, or otherwise**
13 **acquiring land, buildings, facilities, and equipment to be used for**
14 **academic and instructional purposes. A power granted under this**
15 **section to issue bonds without the specific approval of the general**
16 **assembly shall not be construed to permit the issuance of the bonds**
17 **without the specific approvals required under section 16 of this**
18 **chapter. Bonds issued without the specific approval of the general**
19 **assembly are eligible for fee replacement only to the extent**
20 **expressly authorized by a law enacted after the issuance of the**
21 **bonds.**

22 ~~(d)~~ (e) Bonds may be issued by a corporation **for equipment,**
23 **software, and other costs described in section 1.2(b)(1) of this**
24 **chapter** without the approval of the general assembly if, after the
25 issuance, the total amount of outstanding bonds issued by the
26 corporation **for those purposes** without approval will not exceed ~~one~~
27 **ten million dollars (\$1,000,000).** ~~However, the bonds must be approved~~
28 ~~as provided in section 16 of this chapter. (\$10,000,000).~~

29 ~~(e)~~ (f) Bonds may be issued by a corporation without the approval
30 of the general assembly to finance a qualified energy savings project (as
31 defined in IC 20-12-5.5) if ~~(1)~~ annual operating savings to ~~a~~ **the**
32 corporation arising from the implementation of a qualified energy
33 savings project are reasonably expected to be at least equal to annual
34 debt service requirements on bonds issued for this purpose in each fiscal
35 year. ~~and (2)~~ **However, the amount of bonds that may be issued by each**
36 **outstanding for the corporation at any time for qualified energy**
37 **savings projects, other than refunding bonds and exclusive of costs**
38 **described in subsections (b) and (c), does may not exceed ten twenty**
39 **million dollars (\$10,000,000). (\$20,000,000).**

40 (g) Bonds may be issued by the trustees of Purdue University
41 without the approval of the general assembly for deferred
42 expenditures, as determined under accounting principles approved
43 by the state board of accounts, to:

44 (1) repair, rehabilitate, remodel, renovate, or reconstruct
45 existing facilities or buildings;

46 (2) improve or replace utilities or fixed equipment; or

(3) perform related site improvement work.

However, the total amount of bonds issued for the corporation under this subsection without the approval of the general assembly, other than refunding bonds and exclusive of costs described in subsections (b) and (c), may not exceed sixty million dollars (\$60,000,000).

(h) Bonds may be issued by a corporation without the approval of the general assembly for technology expenditures, including:

(1) computing, telecommunications, hardware, software, networking, and supporting equipment; and

(2) related expenditures such as installation and other similar capitalizable costs.

SECTION 11. IC 20-12-7-7, AS AMENDED BY P.L.235-2005, SECTION 196, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. **(a)** No bonds shall be issued by the respective trustees under the provisions of this chapter without the specific approval of:

(1) the budget agency if the bonds are issued for the refunding or advance refunding of any outstanding bonds approved as required by this chapter and the institution makes the findings described in subsection (b); and

(2) the budget committee, budget agency, and the governor, if subdivision (1) does not apply.

The budget agency may request and consider the recommendation of the staff of the Indiana finance authority with respect to the approval of a bond issue under this section.

(b) An institution may provide for refunding or advance refunding of any outstanding bonds under subsection (a)(1) whenever the board of trustees of the institution finds that the refunding or advance refunding will effect a benefit to the institution because:

(1) a net savings to the institution will be effected; or

(2) the net present value of principal and interest payments on the bonds is less than the net present value of the principal and interest payments on the outstanding bonds to be refunded.

SECTION 12. IC 20-12-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a)** The trustees of Indiana University, the trustees of Purdue University, Indiana State University board of trustees, the University of Southern Indiana board of trustees, and the Ball State University board of trustees are authorized and empowered, from time to time, if the governing boards of these corporations find that a necessity exists, to erect, construct, reconstruct, extend, remodel, improve, complete, equip, furnish, operate, control, and manage:

(1) dormitories and other housing facilities for single and married

1 students and school personnel;

2 (2) food service facilities;

3 (3) student infirmaries and other health service facilities including
4 revenue-producing hospital facilities serving the general public,
5 together with parking facilities and other appurtenances in
6 connection with any of the foregoing; **or**

7 (4) parking facilities in connection with academic facilities; **or**

8 ~~(5) medical research; facilities associated with a school of~~
9 ~~medicine; if the facilities will generate revenue from state, federal,~~
10 ~~local, or private gifts, grants, contractual payments, or~~
11 ~~reimbursements in an amount that is reasonably expected to at~~
12 ~~least equal the annual debt service requirements of the bonds for~~
13 ~~the facility for each fiscal year that the bonds are outstanding;~~

14 at or in connection with Indiana University, Purdue University, Indiana
15 State University, the University of Southern Indiana, and Ball State
16 University, for the purposes of the respective institutions. ~~These~~

17 **(b) The trustees of Indiana University and the trustees of**
18 **Purdue University may, from time to time, if the governing boards**
19 **of these corporations find that a necessity exists, erect, construct,**
20 **reconstruct, extend, remodel, improve, complete, equip, furnish,**
21 **operate, control, and manage facilities used for clinical, medical,**
22 **scientific, engineering, or other similar qualitative, quantitative, or**
23 **experimental research, if revenue from state, federal, local, or**
24 **private gifts, grants, contractual payments, or reimbursements is**
25 **available in an amount that is reasonably expected to at least equal**
26 **the annual debt service requirements of the bonds for the facility**
27 **for each fiscal year that the bonds are outstanding at or in**
28 **connection with any of the following campuses of Indiana**
29 **University or Purdue University:**

30 **(1) Purdue University-West Lafayette Campus.**

31 **(2) Indiana University-Purdue University at Indianapolis**
32 **(IUPUI).**

33 **(3) Indiana University-Bloomington Campus.**

34 **(c) The corporations described in subsection (a) or (b) are also**
35 **authorized and empowered to acquire, by purchase, lease,**
36 **condemnation, gift or otherwise, any property, real or personal, that in**
37 **the judgment of these corporations is necessary for the purposes set**
38 **forth in this section. The corporations may improve and use any**
39 **property acquired for the purposes set forth in this section.**

40 ~~(b)~~ **(d) Title to all property so acquired, including the improvements**
41 **located on the property, shall be taken and held by and in the name of**
42 **the corporations. If the governing board of any of these corporations**
43 **determines that real estate, the title to which is in the name of the state,**
44 **for the use and benefit of the corporation or institution under its control,**
45 **is reasonably required for any of the purposes set forth in this section,**
46 **the real estate may, upon request in writing of the governing board of**

the corporation to the governor of the state and upon the approval of the governor, be conveyed by deed from the state to the corporation. The governor shall be authorized to execute and deliver the deed in the name of the state, signed on behalf of the state by the governor, attested by the auditor of state and with the seal of the state affixed to the deed.

SECTION 13. IC 20-12-8-7, AS AMENDED BY P.L.235-2005, SECTION 197, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. **(a)** No bonds shall be issued by the corporations under the provisions of this chapter without the specific approval of:

(1) the budget agency if the bonds are issued for the refunding or advance refunding of any outstanding bonds approved as required by this chapter and the corporation makes the findings described in subsection (b); and

(2) the budget committee, budget agency, and the governor, if subdivision (1) does not apply.

The budget agency may request and consider the recommendation of the staff of the Indiana finance authority with respect to the approval of a bond issue under this section.

(b) A corporation may provide for refunding or advance refunding of any outstanding bonds under subsection (a)(1) whenever the board of trustees of the corporation finds that the refunding or advance refunding will effect a benefit to the corporation because:

(1) a net savings to the corporation will be effected; or

(2) the net present value of principal and interest payments on the bonds is less than the net present value of the principal and interest payments on the outstanding bonds to be refunded.

SECTION 14. [EFFECTIVE JULY 1, 2006] **The trustees of Indiana State University may issue and sell bonds under IC 20-12-6, subject to the approvals required by IC 20-12-5.5, for the purpose of constructing, furnishing, and equipping the Student Recreation Center Project, if the sum of principal costs of any bond issued, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed twenty-four million dollars (\$24,000,000). The project is not eligible for fee replacement."**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1029 as printed February 24, 2006.)

Senator SIMPSON